

EXHIBIT H

MELKERSEN LAW GROUP, LLC

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October 1, 2020

VIA E-MAIL

Suhana S. Han, Esquire
Sullivan & Cromwell, LLP
125 Broad Street
New York, New York 10004-2498

Re: *Garcia et als. v. Volkswagen Group of America, Inc. et al.*
ESI Search Terms and Custodians

Dear Suhana:

I write to followup on our call earlier this week, and to your letter dated September 28, 2020, with the proposed custodian list and search queries for use in responding to our first requests for production to VWGOA.

Custodians: As we discussed in our call, unless and until we can at least some of the documents we are requesting, it is impossible for me to know precisely which custodians' information should be searched. Nevertheless, here is a starting point of an expanded list of proposed custodians to the one you proposed in your letter, for the relevant time period (2007-2019):

Custodians listed in your September 28, 2020 letter;

All Predecessors to Custodians listed herein for entirety of the relevant time period;

Tim Glynn

Chi-Han Chen

Hardy Brennecke

Robert Martell

Patrick Mayer

Hendrick Muth

Clark Campbell, Experimental Marketing

Sean Maynard, Lifestyle/Influencer Fleet Vehicles, National Events Coordinator

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Executive Board Member(s) Who Signed off on Project Appropriation Requests

Head of Pilot Hall (e.g. Oliver Wessel, O. Burk)

Individuals Who Signed Off on Michigan Title Applications for Garcia & Jacobson
(VWGOA to Identify these Persons)

Lifestyle Department Head

Scott Vazin

Joerg Sommer

Stuart Johnson

Gregory McReynolds

Jed Hathaway

Timothy Thrun

Rainer Michel

Manager, Company Vehicle Administration (Holtz)

Dist. and Sales Administrator, Vehicle Administration (Anderson)

Manager, Customs (Brown)

Assembly Press Cars (S. Purcell)

Logistics Product Control (F. Freccia & R. Eggeling)

Scrap Administrator (Anthony Dickerson, Michael Hill)

Scrap Management Specialist (Roger McAvoy)

Oliver Schmidt

Michael Horn

Sources: Your letter indicates that VWGOA intends to search “SourceOne email data” for the agreed upon custodians. I’m not sure exactly what that means. If there is other email data during the relevant time period that is not so-called “SourceOne” we request that be searched as well. Please provide us with more information about this issue so we are clear what is being searched.

As for non-custodial sources of information, again, it is impossible for me to know precisely which such sources may contain relevant information because without knowing the architecture of how such non-custodial sources are organized and stored. I think that the burden is on VWGOA to search whatever sources are within its control where responsive documents to our discovery may be found. Without waiver of our position on that issue, we believe that

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additional sources beyond those mentioned in your letter that should be searched include the following:

Elektronischer Teilekatalog, commonly referred to by its abbreviation ETKA, which is the official electronic parts catalogue for Volkswagen-branded and Audi-branded passenger cars. With only a vehicle identification number (“VIN”), the ETKA system will determine whether any given vehicle is a PreSeries Car or Zero-Series Car, and if so, the ETKA system produces a warning message that states, “caution: preproduction model. [T]he vehicle contains special equipment/fixtures that are not documented in the genuine parts catalogue.”

“Daisy System” which is an internal as-built database which documents the as-built condition of each of your clients’ Pre-Production Cars.

Other Repositories from third-party fleet management companies – you listed NAVS, but none of the other third parties who performed the same type of work for VWGOA that NAVS performs. You asked me for a list of these. The ones I am aware your clients have used are as follows:

Page One Auto

G. Schmitz & Associates

Event Solutions

Prestige Auto

Automotive Media Solutions

Carnica a/k/a Dent Wizard

Importation Data – whoever VWGOA contracts with or has contracted with during the relevant time period to assist it with importation of its cars should maintain all importation data that we are seeking, if VWGOA does not directly maintain such information. These are VWGOA documents required by law to be maintained in the ordinary course of business, and would include the HS-7 forms sought in our requests.

Date Range: Your proposed date range is agreeable. As to searching backup data, please let me know for each custodian listed above, or for their respective predecessor(s) for their position during the relevant time period, whether email data exists for the entirety of the relevant time period. If not, then we may need to resort to backup data if available.

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Search Terms: I will address search terms in the context of each particular request, which I think we be easier to ensure that we are receiving responsive documents.

RFP#2: CPO Sales Strategy/Profits/Market Share: please propose a search-term string for this request insofar as it appears that none is currently proposed that would result in documents responsive to this request.

RFP#3: Guidelines/Standards of Conduct: Some of these documents appear to be able to be determined through manual means as easily segregable documents per your letter. For purposes of ESI searching, search strings we propose are as follows:

Plaintiffs' Proposed Search String#1: ("Conformity of Production" or COP) AND ("Process Standard" or "Quarterly Report" or "Annual Report")

Plaintiffs' Proposed Search String#2: ("Conformity of Production" or COP) AND (CQ-A or QS or EKSP or CQ-P) AND (non-compliance or noncompliance or "out of compliance" or noncompliant or "not compliant" or "do not comply" or "does not comply" or illegal or improper or "cannot be certified" or "saleable with limitations" or "not saleable" or scrap or scrapped or scrapping)

Plaintiffs' Proposed Search String#3: ("Conformity of Production" or COP) AND (60055 or 4889600 or E-tag or Etag or PARS or "Project Appropriation Request" or "(Project Appropriation Request)" or "sold retail" or (retail /5 sale) or VCI or "VW Credit" or auction or "auction system")

Plaintiffs' Proposed Search String#4: ("Federal Safety Standards" or FSS or "Federal Motor Vehicle Safety Standards" or FMVSS) AND (non-compliance or noncompliance or "out of compliance" or noncompliant or "not compliant" or "do not comply" or "does not comply" or illegal or improper or "cannot be certified" or "saleable with limitations" or "not saleable" or scrap or scrapped or scrapping)

Plaintiffs' Proposed Search String#5: (0-series or 0series or "0 series" or "zero series" or "zero-series or pre-series or preseries or "pre series" or preproduction or "pre production" or pre-production or "early production) AND ("Federal Safety Standards" or FSS or "Federal Motor Vehicle Safety Standards" or FMVSS)

Plaintiffs' Proposed Search String#6: (0-series or 0series or "zero series" or zero-series pre-series or preseries or "pre series" or preproduction or "pre production" or "early production") AND (non-compliance or

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noncompliance or “out of compliance” or noncompliant or “not compliant” or “do not comply” or “does not comply” or illegal or improper or “cannot be certified” or “saleable with limitations” or “not saleable” or scrap or scrapped or scrapping or “internal use only”)

Plaintiffs’ Proposed Search String#7: (“Certificate of Title” or “original title” or “title application” or appl* /5 title) AND (7,500 or 7500 or (pre-registration /5 driving) or VCI or “VW Credit” or auction or “auction system” or CPO or “certified pre-owned” or “certified pre owned”)

Plaintiffs’ Proposed Search String#8: (Odometer or miles or mileage) AND (inaccurate or “not accurate” or non-compliance or noncompliance or “out of compliance” or noncompliant or “not compliant” or “non compliant” or “non-compliant” or “do not comply” or “does not comply” or illegal or improper or “cannot be certified” or “saleable with limitations” or “not saleable” or false or perjury or jail or prison or truth or truthful)

RFP#4: Process for Affixing Labels and for MCO Issuance: Some of these documents appear to be able to be determined through manual means as easily segregable documents per your letter. For purposes of ESI searching, please propose a search-term string for this request insofar as it appears that none is currently proposed that would result in documents responsive to this request.

RFP#5: Documents Turned Over to Regulators: Some of these documents appear to be able to be determined through manual means as easily segregable documents per your letter. For purposes of ESI searching, we request VWGOA’s proposed Search String#3 also be used in searching for responsive documents to this request, but we ask that the @justiz.niedersachsen.de domain name be added as an alternative to the @dot.gov domain name. We also propose the following additional search string:

Plaintiffs’ Proposed Search String#9: To/from/cc email with @dot.gov OR @justiz.niedersachsen.de domain name AND (0-series or 0series or “0 series” or “zero series” or “zero-series or pre-series or preseries or “pre series” or preproduction or “pre production” or pre-production or “early production”)

RFP#6: Documents between Volkswagen and NHTSA: In addition to VWGOA’s proposed Search String #3, we also propose the following additional search string:

Plaintiffs’ Proposed Search String#10: To/from/cc email with @dot.gov AND (0-series or 0series or “0 series” or “zero series” or “zero-series or pre-series or preseries or “pre series” or preproduction or “pre production” or pre-production or “early production”)

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RFP#7: Volkswagen Internal Correspondence Regarding Recalls: VWGOA proposes use of its Search String #4 here. We accept that proposal, but we request that the @vw.com.mx domain be added as an alternative to the @vw.com or @volkswagen.de domain names. We also request running Plaintiffs Search Strings #1-9 to locate documents responsive to this RFP#7, except limiting each of those searches to documents where the To/from/cc email reflects @vw.com.mx OR @vw.com OR @volkswagen.de domain

RFP#8: Safety Testing Protocols Ensuring FMVSS Compliance: VWGOA proposes use of its Search String #6 here. We accept that proposal, but we request that the terms 0series or “0 series” or “zero-series or “early production” be added to the opening line of your Search String #6. We also request running Plaintiffs’ Search Strings #2-6 to locate documents responsive to this RFP#8.

These are all the RFPs that I have time to comprehensively address today, but I will attempt to address the remaining RFPs early next week. In the meantime, I call to your attention RFP#25, 31 and 76, each of which pertains to our request for certain completed forms HS-7. I do not recall specifically discussing these during our call earlier this week, but from our perspective, these are some of the most important documents that we are seeking in this case. Constructing appropriate search strings to obtain these documents should be self-explanatory but will likely require manual review as well to ensure that all responsive documents are produced. Please update me at your earliest convenience how you propose to obtain these HS-7 forms and the inquiries you have made to date regarding their location, custodians, and the like relating to form HS-7, including contacts your client has made with its import agent(s) regarding this issue. If it remains your client’s position that it will not produce any HS-7 forms responsive to RFP#31 and 76, please let me know that by Monday of next week, because this is something I will need to tee up with the magistrate judge without further delay.

Very truly yours,

/s/ Michael J. Melkersen

Michael J. Melkersen
Co-Lead Counsel for Putative Class

cc: Counsel of Record